

EXHIBIT 103-B
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., MDL No. 2843
CONSUMER USER PROFILE Case No.
LITIGATION 18-md-02843-VC-JSC

This document relates to:
ALL ACTIONS

ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)
CORPORATE REPRESENTATIVE - MICHAEL PATRICK CLARK
(Reported Remotely via Video & Web Videoconference)
Denver, Colorado (Deponent's location)
Wednesday, May 18, 2022
Volume I

STENOGRAPHICALLY REPORTED BY:
REBECCA L. ROMANO, RPR, CSR, CCR
California CSR No. 12546
Nevada CCR No. 827
Oregon CSR No. 20-0466
Washington CCR No. 3491
JOB NO. 5210145
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ALL ACTIONS

DEPOSITION OF MICHAEL PATRICK CLARK,
taken on behalf of the Plaintiffs, with the
deponent located in Denver, Colorado, commencing at
10:07 a.m., Wednesday, May 18, 2022, remotely
reported via Video & Web videoconference before
REBECCA L. ROMANO, a Certified Shorthand Reporter,
Certified Court Reporter, Registered Professional
Reporter.

APPEARANCES OF COUNSEL

(All parties appearing via Web videoconference)

For the Plaintiffs:

BLEICHMAR FONTI & AULD LLP

BY: LESLEY E. WEAVER

BY: MATTHEW MELAMED

BY: JOSHUA SAMRA

Attorney at Law

555 12th Street

Suite 1600

Oakland, California 94607

(415) 445-4003

lweaver@bfalaw.com

jsamra@bfalaw.com

/////

APPEARANCES OF COUNSEL

(All parties appearing via Web videoconference)

For the Plaintiffs:

KELLER ROHRBACK L.L.P.

BY: DAVID KO

BY: CARI CAMPEN LAUFENBERG

BY: DEREK W. LOESER

Attorneys at Law

1201 Third Avenue

Suite 3200

Seattle, Washington 98101

(206) 623-1900

dko@kellerrohrback.com

claufenberg@kellerrohrback.com

dloeser@kellerrohrback.com

/////

APPEARANCES OF COUNSEL

(All parties appearing via Web videoconference)

For Facebook, Inc.:

GIBSON, DUNN & CRUTCHER LLP

BY: ROBERT C. BLUME

BY: MIKE M. ULMER

Attorneys at Law

1801 California Street

Suite 4200

Denver, Colorado 80202-2642

(303) 298-5735

rblume@gibsondunn.com

mulmer@gibsondunn.com

/////

APPEARANCES OF COUNSEL(cont'd)

(All parties appearing via Web videoconference)

For Facebook, Inc.:

GIBSON, DUNN & CRUTCHER LLP

BY: ROSEMARIE T. RING

Attorney at Law

555 Mission Street

Suite 3000

San Francisco, California 94105-0921

(415) 393-8247

rring@gibsondunn.com

and

BY: MARTIE KUTSCHER CLARK

Attorney at Law

1881 Page Mill Road

Palo Alto, California 94304-1211

(650) 849-5348

mkutscherclark@gibsondunn.com

/////

1 APPEARANCES OF COUNSEL (cont'd)
2 (All parties appearing via Web videoconference)
3

4 JAMS
5 BY: DANIEL B. GARRIE
6 Special Master
7 555 W. 5th Street
8 32nd Floor
9 Los Angeles, California 90013
10 (213) 253-9706
11 dgarrie@jamsadr.com
12
13
14
15

16 ALSO PRESENT:
17 Ian Chen, Associate General Counsel,
18 Meta Platforms
19 John Macdonell, Videographer
20
21
22
23
24

25 /////

1 know as a result of conversations with counsel, I'd 01:27:47
2 instruct you not to answer.

3 THE DEPONENT: I only know that because
4 it was part of the conversation with counsel.

5 MS. WEAVER: Rob, your position is you 01:28:03
6 telling him who knows about the datr cookie is
7 privileged; is that right?

8 MR. BLUME: No. Your question was, who
9 gave the information with regard to this letter
10 about datr -- datr cookies. That's privileged. 01:28:12

11 MS. WEAVER: Okay.

12 MR. BLUME: To the extent he knows that
13 information from discussions with counsel.

14 Q. (By Ms. Weaver) You're not prepared to
15 testify about the datr cookie, is that right, 01:28:23
16 Mr. Clark?

17 MR. BLUME: Object -- objection. Form.

18 THE DEPONENT: I'm not prepared to
19 testify about the datr cookie as a representative
20 of Facebook. Only from personal experience. 01:28:39

21 Q. (By Ms. Weaver) And you, from personal
22 experience, don't -- well, strike that.

23 Do you know how -- what -- strike that.

24 Do you know how the datr cookie
25 identifies a Web browser? 01:28:52

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1 A. It -- I'm not prepared to answer that as 01:28:55
2 part of testifying as a representative of Facebook.
3 But in my personal experience, that -- the
4 datr cookie is a generated unique identifier to a
5 browser. How that occurs and -- and exactly the 01:29:09
6 content in it, I do not know.

7 Q. Who would know?

8 A. I -- I -- I am not prepared to testify to
9 that as a representative of Facebook. In my
10 personal experience, I don't have a specific name 01:29:25
11 that I would know that would know that part of the
12 process.

13 Q. Can you -- can you identify anybody that
14 you work with at Facebook who knows how the datr
15 cookie functions? 01:29:41

16 A. As of -- I -- I didn't prepare for that
17 as part of my testimony as a representative of
18 Facebook. But in my personal experience, I -- I
19 would go look up who I would need to, to go have
20 that conversation. I don't -- I don't know a name 01:29:59
21 offhand.

22 Q. Okay. Do you know -- okay. Strike that.

23 What is the fpb cookie?

24 A. I didn't specifically prepare for that as
25 part of my testimony representing Facebook. But in 01:30:14

1 my personal experience and -- I -- I would refer to 01:30:17
2 the -- I would refer to the filing for that detail.

3 The underscore FB cookie is set on the
4 third-party domain only if the advertiser/publisher
5 has installed the Facebook pixel business tool and 01:30:28
6 opted into the use of these cookies.

7 The cookie has its own -- or has a
8 browser identifier and -- and in the epoch time
9 when the cookie was created. And then for
10 additional details, there's documentation on the 01:30:43
11 external developer Facebook side.

12 Q. And you said the epoch time?

13 It's a little unclear. I just didn't
14 understand what you said.

15 A. The -- yeah, it's -- it's E-P-O-C-H. 01:31:01
16 It's -- it's a time commonly used in -- in computer
17 languages and UNIX time systems. The -- the time
18 since -- and I should know it offhand -- but
19 sometime in 1969 or 1970, and the number of
20 seconds that's -- 01:31:21

21 Q. Sorry. It's just that I couldn't
22 understand you and it didn't come through on the
23 transcript. That's fine.

24 Okay. What is the [REDACTED]?

25 MR. BLUME: Objection. Form. Scope. 01:31:34

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1 THE DEPONENT: I didn't prepare to 01:31:37
2 specifically talk about that as a representative of
3 Facebook.

4 But in my personal experience, those are
5 the cookies that are used for [REDACTED]
6 [REDACTED]. And so
7 that's -- that's where [REDACTED]
8 [REDACTED]

9 Q. (By Ms. Weaver) Do third parties
10 transmit the Facebook user ID through [REDACTED]
11 [REDACTED]

12 A. I didn't specifically prepare to talk to
13 that as a representative of Facebook.

14 But in my personal experience, those
15 cookies are only scoped to Facebook.com. So third 01:32:15
16 parties should not have access to that.

17 Q. They are not supposed to have access to
18 the Facebook user ID is your testimony?

19 MR. BLUME: Objection. Form. And scope.

20 THE DEPONENT: I didn't specifically 01:32:34
21 prepare for that as part of my testimony.

22 But in my personal experience, that --
23 that question is very, very generic and -- and --
24 and inaccurate.

25 What I had stated before is the [REDACTED] 01:32:46

1 the [REDACTED] [REDACTED]
2 [REDACTED], and third parties are not
3 authorized or should not have access to those
4 cookies in the browser as they're scoped to
5 Facebook.com. 01:33:07

6 And to further reiterate, that is why we
7 have third-party application-scoped IDs and other
8 kinds of IDs, so that we don't give third parties
9 the canonical Facebook user ID.

10 Q. (By Ms. Weaver) You're referring to the 01:33:26
11 ASID; is that correct?

12 A. That is correct.

13 Q. Okay. We'll come back to that.
14 Why did Facebook create -- well, strike
15 that. 01:33:35

16 You said that the -- the fbc cookie is
17 used for authentication.

18 How does that function?

19 MR. BLUME: Objection. Form. Beyond the
20 scope. 01:33:46

21 THE DEPONENT: That -- that wasn't what I
22 said. I didn't specifically prepare for that as
23 part of my testimony.

24 But in my personal experience, the
25 xs/c_user and xs c_user cookies are what are used 01:33:56

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1 for authentication and identify for users logged 01:34:03
2 in.

3 The_fbc cookie is a cookie that is set on
4 third-party domain only if the advertiser and
5 publisher has installed the Facebook pixel business 01:34:15
6 tool. And it is set only if the click originated
7 from the Facebook service.

8 For instance, when clicking on an ad in
9 Facebook newsfeed. And the_fbc cookie contains an
10 encrypted user ID. 01:34:32

11 Q. (By Ms. Weaver) And who encrypts the
12 user ID?

13 MR. BLUME: Objection. Form. Scope.

14 THE DEPONENT: I didn't prepare for that
15 as part of my testimony. 01:34:43

16 In my personal experience, I don't know.

17 Q. (By Ms. Weaver) Okay. And so just
18 the record -- so the record is clear, you did not
19 prepare to testify regarding the fpb cookie,
20 the_fbc cookie, the [REDACTED] [REDACTED]

[REDACTED] or fr cookies; is that right?

22 MR. BLUME: Objection. And to the extent
23 the question asks for preparation beyond topic 4 is
24 beyond the scope.

25 THE DEPONENT: I did not. As a -- as a 01:35:19

1 representative of Facebook, I didn't prepare for 01:35:20
2 that topic.

3 Q. (By Ms. Weaver) And did you prepare for
4 whether or not those cookies contained information
5 such as fbid, fbtype or URL? 01:35:26

6 MR. BLUME: Same objection.

7 Q. (By Ms. Weaver) Are you answering the
8 question?

9 A. As a part of my preparation, as a
10 representative of Facebook, I did not prepare for 01:36:03
11 that.

12 Q. Did you prepare to discuss the datr
13 cookie?

14 MR. BLUME: Objection, to the extent the
15 question seeks information beyond topic 4 is beyond 01:36:17
16 the scope.

17 THE DEPONENT: As a part of my
18 representation as a representative of Facebook, I
19 did not prepare for that. But did share -- from my
20 personal experience. 01:36:30

21 MS. WEAVER: Okay. We'll move on.

22 Q. (By Ms. Weaver) Do you know who at
23 Facebook would be qualified to discuss those
24 cookies?

25 MR. BLUME: Objection. Form. 01:36:47

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1 THE DEPONENT: As a representative of -- 01:36:52
2 as my preparation as a representative of Facebook
3 for this testimony, I didn't prepare for that.

4 In my personal experience, I -- I do not
5 have a name. 01:37:03

6 Q. (By Ms. Weaver) Okay. Going back to
7 Exhibit 348.

8 Let me just ask a question. You
9 testified a moment ago that there was a binder in
10 the room that you used to prepare -- prepare that 01:37:21
11 included Exhibit 349; is that right?

12 A. Yes.

13 Q. And you reviewed and -- and recalled that
14 it referenced cookies, right?

15 A. That is correct. 01:37:45

16 Q. Did -- did you discuss whether you would
17 testify regarding those cookies?

18 MR. BLUME: Objection. Form.

19 THE DEPONENT: I did not.

20 Q. (By Ms. Weaver) Okay. Going back to 01:37:59
21 348.

22 Do you see that there's a reference in
23 the first paragraph -- I'm sorry. Okay.

24 There's a sentence that says "This means
25 we need to [REDACTED] - 01:38:20

1 record. It's 1:53 p.m. 01:53:34

2 MR. BLUME: So with regard to topic 4,

3 which speaks to the processes related to deletion,

4 pseudonymization, de-identification,

5 re-identification association and deletion of user 01:53:48

6 data and information, as that relates to cookies,

7 Mr. Clark is prepared to discuss whether Facebook

8 uses cookies as identifiers; specifically,

9 identifiers for users. And if so, how Facebook

10 treats those cookies within the deletion framework. 01:54:07

11 It was -- it is -- it's our position that

12 to discuss the processes of that deletion

13 framework, to talk about the specific cookies, what

14 they are specifically, what information they get is

15 beyond the scope. 01:54:25

16 He's certainly prepared to talk about how

17 the framework -- deletion framework deals with

18 cookies, to the extent those cookies are

19 identifiers. But not any specific cookie or its

20 purpose or the information it gets. 01:54:37

21 SPECIAL MASTER GARRIE: He can do the

22 high level, but getting into the technical ways of

23 how the cookies operationally work within the

24 different frameworks he describes is beyond the

25 scope. 01:54:48

1 Is that what -- the gist of what we're 01:54:49
2 getting at?

3 MR. BLUME: Well, let -- let me clarify.

4 He can talk about the -- the details of
5 how the deletion framework deals with cookies to 01:54:55
6 the -- to the extent cookies are -- are
7 identifiers. But what is specific cookie seeks --

8 SPECIAL MASTER GARRIE: That's what I
9 mean. The specific cookies that were emailed or
10 identified by plaintiffs, they identified a subset 01:55:08
11 of specific cookies, those interworkings of how
12 those specific cookies interoperate with those
13 frameworks is -- he is not prepared to testify
14 about.

15 MR. BLUME: Except to the extent that 01:55:21
16 they --

17 SPECIAL MASTER GARRIE: The technical.

18 MR. BLUME: Right.

19 Except to the extent that those cookies
20 are considered identifiers and -- and are part of 01:55:26
21 the process.

22 It doesn't matter what the specific
23 cookie is, as far as the deletion framework. Every
24 cookie would be treated the same way. And he's
25 prepared to talk about how the deletion framework 01:55:41

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1 deals with cookies as -- en masse. But any 01:55:43
2 specific cookies, he -- is beyond -- we would argue
3 is beyond the scope.

4 They're all treated the same way. Every
5 cookie is treated the same way within the processes 01:55:55
6 of pseudonymization, de-identification,
7 re-identification, associations, deletion. It
8 doesn't matter which cookie. They're all treated
9 the same.

10 MS. WEAVER: So if I may -- 01:56:09

11 (Simultaneously speaking.)

12 SPECIAL MASTER GARRIE: Didn't -- didn't
13 he testify --

14 MS. WEAVER: The topic includes
15 association. We identified, for example, the named 01:56:13
16 plaintiffs' DYI files complaining -- containing
17 datr cookies precisely so we could understand what
18 data and information that's in the description.

19 User data and information is expressed through
20 those cookies, which the witness said and is 01:56:33
21 factually correct, are identifiers.

22 So Facebook is collecting and tracking
23 through the datr cookie which websites users visit,
24 and I -- I attempted to get testimony about that
25 today after sending -- 01:56:48

1 SPECIAL MASTER GARRIE: But he -- 01:56:50

2 MS. WEAVER: -- an email two weeks ago

3 to -- only to find out in the deposition that in

4 preparation here, counsel has not had the person

5 prepare on any of those cookies. 01:57:00

6 SPECIAL MASTER GARRIE: Well, one sec. I

7 don't want to -- let's not go down a rabbit hole

8 here because that's where we're heading and we

9 still have deposition left.

10 At the end of the day, prepared or not, 01:57:11

11 we can take that offline at a separate point. The

12 bottom line is the witness that's here now isn't

13 prepared to speak about those specific technical

14 cookies that are associated with this specific

15 topic, as it relates to how you just described it. 01:57:28

16 It is what it is, right?

17 MS. WEAVER: Yup, I understand.

18 SPECIAL MASTER GARRIE: But --

19 MR. BLUME: Hold on. Hold on.

20 Just to be clear, he's prepared to 01:57:36

21 testify about whether Facebook uses the datr cookie

22 as an identifier. That's -- so he can speak to

23 that.

24 SPECIAL MASTER GARRIE: But those were --

25 MR. BLUME: And then if so, how -- what's 01:57:44

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1 that? 01:57:47

2 SPECIAL MASTER GARRIE: Where -- where

3 I'm confused is those cookies she's referring to

4 are those, those things, like this is -- those are

5 the specific cookies that consist of what you're 01:57:53

6 talking about. So where I --

7 MR. BLUME: Right.

8 SPECIAL MASTER GARRIE: -- where I'm

9 getting confused is, those cookies that she

10 identified -- that are identified by plaintiffs 01:58:02

11 are -- I don't think all -- but a subset of the

12 exact topic you're talking about. But --

13 MR. BLUME: Any facts --

14 SPECIAL MASTER GARRIE: -- those are

15 technical tools -- 01:58:12

16 MR. BLUME: Well, but if -- if -- yeah.

17 Are the -- are -- is the following cookie -- does

18 Facebook consider the following cookie to be an

19 identifier. If yes, how does -- how does Facebook

20 deal with it within the deletion framework. 01:58:22

21 He's prepared to answer those questions.

22 But the -- but if -- if -- but the specific --

23 if -- if Facebook doesn't consider a specific

24 cookie to be an identifier, then it's not caught up

25 within the deletion framework, which is what he's 01:58:34

1 here to testify about. 01:58:37

2 MS. WEAVER: So he's only here about

3 deletion. But the topic talks about association of

4 user data and information. That's what the topic

5 says. 01:58:44

6 MR. BLUME: The processes of -- the --

7 the processes of pseudonymization,

8 de-identification, re-identification, association

9 and deletion of --

10 MS. WEAVER: Of -- 01:58:54

11 MR. BLUME: -- of user data --

12 MS. WEAVER: -- user data.

13 MR. BLUME: -- within that -- it's the

14 process --

15 MS. WEAVER: Association of user data and 01:58:58

16 information --

17 SPECIAL MASTER GARRIE: No, let me -- let

18 me --

19 MS. WEAVER: Yeah.

20 SPECIAL MASTER GARRIE: The part 01:59:01

21 that I -- so what she's saying is that those

22 cookies are used to associate with specific users

23 by Facebook as tools. And she's asking him

24 specific questions about those cookies that are

25 believed and been represented, I believe, to 01:59:14

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1 associate user activity or make the association of 01:59:17
2 a Facebook user and their activity. Those specific
3 subset of cookies. And then --

4 MR. BLUME: Yes. If Facebook --

5 SPECIAL MASTER GARRIE: -- association is 01:59:29
6 done via that cookie.

7 MR. BLUME: If Facebook -- if Facebook
8 considers the particular cookie to be an identifier
9 associated with a user and that -- and is part of
10 that process, he's -- he is happy to talk about it. 01:59:40

11 SPECIAL MASTER GARRIE: But he can talk
12 about those cookies.

13 MR. BLUME: He -- he can -- he can answer
14 the question whether -- whether Facebook considers
15 those cookies to be identifiers. It says -- 01:59:49

16 (Simultaneously speaking.)

17 SPECIAL MASTER GARRIE: But to know how
18 they -- she wants -- the question is how does
19 Facebook associate. How is that Facebook -- maybe
20 I'm missing something. But I believe what's being 01:59:59
21 asked is how is that association done by Facebook
22 with those cookies. Like what is the process
23 through which -- technical process through which
24 Facebook makes an association.

25 Maybe I'm misreading or mishearing what 02:00:13

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1 plaintiffs are asking about. And my question is, 02:00:16
2 can he talk about how -- maybe I'm
3 misunderstanding.

4 Is he prepared to testify about the
5 technical process of how Facebook makes those 02:00:25
6 associations?

7 MR. BLUME: To the extent the -- by
8 "association," you mean identify -- identifiers?
9 In other words --

10 SPECIAL MASTER GARRIE: The user. 02:00:42

11 MR. BLUME: -- did he identify a user and
12 how that -- how that information is then captured
13 within these processes, as set forth in topic 4,
14 yes.

15 SPECIAL MASTER GARRIE: So if we open up 02:00:52
16 the cookie, we can -- he can walk us through how
17 that cookie makes those associations?

18 MR. BLUME: No. He can identify whether
19 or not these cookies are considered by Facebook to
20 be identifiers, generally. Not how they work. But 02:01:04
21 whether they are in the process, in the deletion
22 framework, considered to be identifiers. In other
23 words, used to identify the user.

24 SPECIAL MASTER GARRIE: Okay. The
25 specific -- 02:01:14

1 MS. WEAVER: I think -- well, we can save 02:01:15
2 for another day --
3 SPECIAL MASTER GARRIE: The technical --
4 he's not --
5 MS. WEAVER: -- because it seems very 02:01:17
6 clear that despite the fact that plaintiffs
7 identified specific pages pulled out of the DYI
8 file with datr cookies associated with the named
9 plaintiffs, this witness does not -- according to
10 the instructions of counsel, doesn't interpret the 02:01:34
11 datr cookie to be an identifier for users. And for
12 that reason, this witness is not prepared to
13 testify on that topic.
14 MR. BLUME: Well, you never asked -- you
15 never asked him that question. Ask him that 02:01:47
16 question.
17 MS. WEAVER: Either way -- Rob, you
18 excluded your preparation --
19 MR. BLUME: No, ask him the question.
20 THE COURT REPORTER: Hold on. Hold on. 02:01:52
21 Hold on.
22 SPECIAL MASTER GARRIE: No, you guys are
23 doing this again. Time out. Time out.
24 We'll go off the record and I'll reset
25 everything. And I will take time away from -- take 02:02:00

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1 time and add time, so we may end up at zero. 02:02:02

2 But the point being is stop and listen to

3 each other. The net/net is that what Counsel Blume

4 is saying, the question you just asked,

5 Counsel Weaver, you can ask the question and hear 02:02:13

6 the answer.

7 Did I miss that, Counsel Blume?

8 MR. BLUME: That's correct. No, that is

9 absolutely correct.

10 SPECIAL MASTER GARRIE: And then based -- 02:02:22

11 based on that answer, Counsel Weaver, you may

12 find --

13 MS. WEAVER: I think he said that's

14 incorrect.

15 MR. BLUME: No, I said that's absolutely 02:02:28

16 correct. Ask him if he considers the datr cookie

17 to be an identifier. If so, how it fits in the

18 process. And ask for --

19 MS. WEAVER: But the question is

20 whether -- sorry. 02:02:36

21 The question is whether it's associated

22 with user data and information. That's the topic.

23 MR. BLUME: The --

24 MS. WEAVER: Facebook's process of

25 association of user data and information. 02:02:46

1 MR. BLUME: And -- and for purposes of 02:02:52
2 pseudonymization, de-identification,
3 re-identification, that association is identifiers.
4 And so asking if it's -- if he considers it for
5 purposes of the deletion framework, which is what 02:03:02
6 he's here to testify, whether it's considered an
7 identifier. If it is, it fits into the process.
8 If it's not, then it doesn't. He's here to talk
9 about that deletion, de-identification,
10 pseudonymization and association with regard to 02:03:15
11 those that -- and within that process. Just ask
12 him the ordinary question.
13 SPECIAL MASTER GARRIE: That's a broad
14 question.
15 MS. WEAVER: I'll just -- Special Master, 02:03:23
16 I don't want to waste any more time. It's very
17 difficult to take depositions and have arguments
18 like this in the middle of a dep. So let's --
19 MR. BLUME: I agree.
20 MS. WEAVER: -- refer this to a different 02:03:32
21 time. And I would just note -- have you pay
22 attention, Rob, to the Oxford comma. In topic --
23 in topic 4, there's a comma after association.
24 SPECIAL MASTER GARRIE: Wait. Wait.
25 MS. WEAVER: All of those topics are 02:03:42

1 individual. 02:03:43

2 SPECIAL MASTER GARRIE: I think -- I
3 think you made a good point. We're not
4 accomplishing anything here.

5 MS. WEAVER: Right. 02:03:48

6 SPECIAL MASTER GARRIE: I give 15
7 minutes --

8 MR. BLUME: Right.

9 SPECIAL MASTER GARRIE: -- back to
10 plaintiffs here because this was at my request. 02:03:50

11 I was just trying to see if we could
12 avoid the downstream issue that looks inevitable,
13 to come. So we will -- we will put a pin in it and
14 I will -- we will -- we will figure if it is
15 appropriate or whether it was or was not, or so on 02:04:06
16 and so forth.

17 I was hoping it would be resolved herein,
18 but it does not seem foreseeable.

19 MR. BLUME: Well, not -- yeah.

20 SPECIAL MASTER GARRIE: I understand, 02:04:15
21 Counsel Blume, your position. I fully get it. I
22 understand, Counsel Weaver, your position. I
23 realize there's a fundamental issue there that will
24 not be resolved during this break.

25 So everybody should go get lunch, and we 02:04:25

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1 will resume -- I was duly hopeful that I was 02:04:26
2 misreading what I thought, but it is fine --
3 MR. BLUME: Well, welcome your -- this
4 question, as you --
5 SPECIAL MASTER GARRIE: I mean, I thought 02:04:42
6 that -- you know, fair enough. I think there's
7 just a -- so we can take a break. Everybody get
8 lunch. And we'll put a pin in it and we'll resume.
9 MS. WEAVER: Okay. When do we want to
10 get -- come back? 02:04:50
11 MS. LAUFENBERG: We're still on the
12 record, by the way.
13 THE COURT REPORTER: Can we go off?
14 THE VIDEOGRAPHER: Sure. We're off the
15 record. It's 2:05 p.m. 02:05:01
16 (Recess taken.)
17 THE VIDEOGRAPHER: We're back on the
18 record. It's 2:55 p.m.
19 Q. (By Ms. Weaver) Hello, Mr. Clark.
20 Did you have a good lunch? 02:55:21
21 A. I did.
22 Q. Okay. You know that you're still under
23 oath, right?
24 A. That is correct.
25 Q. Okay. I'd like to ask you to just turn 02:55:29

1 [REDACTED] 05:02:54
2 Instead, it is a [REDACTED]
3 [REDACTED] can make [REDACTED]
4 [REDACTED] as per
5 our [REDACTED] 05:03:10
6 "It is [REDACTED]
7 [REDACTED] because of its
8 [REDACTED] even though it [REDACTED]
9 [REDACTED]."
10 Q. Personal -- 05:03:37
11 A. "For example" --
12 Q. I'm sorry.
13 Go ahead.
14 A. "For" -- I'm just reading it slow to make
15 sure -- "For example, [REDACTED] is a 05:03:42
16 [REDACTED]
17 [REDACTED] in such a way that it could
18 [REDACTED]."
19 Q. Do you have an understanding that the
20 definition of personal information, under the 05:04:08
21 CCPAA, is any information that can be reasonably
22 linked or associated with an individual?
23 MR. BLUME: Objection. Calls for a legal
24 conclusion. Form.
25 THE DEPONENT: I -- I -- I -- that one, I 05:04:42

1 can't answer that. But I can answer that I believe 05:04:43

2 that's part of why we make UII even broader.

3 Q. (By Ms. Weaver) Broader than what?

4 A. Specific -- when you get to the

5 definition of UII meaning both types of data, but 05:04:55

6 combinations of types of data.

7 Q. Okay. As you sit here today, can you

8 state what personal information is under the CCPAA,

9 as referenced in this document?

10 MR. BLUME: Objection. Form. Scope. 05:05:18

11 Calls for a legal conclusion.

12 THE DEPONENT: I -- I can't quote the

13 CCPA off the top of my head.

14 Q. (By Ms. Weaver) So you don't know what

15 the definition of "is personal information under 05:05:28

16 the CCPA" as referenced in this document?

17 A. As -- as I just am seeing this document

18 for myself, I -- I'm familiar with personal

19 information under CCPA, but just don't -- don't

20 have that analysis or didn't prepare for -- to 05:05:45

21 answer that question.

22 Q. Do you know what personal infor- -- how

23 personal information is defined under the CCPA?

24 MR. BLUME: Objection. Calls for a legal

25 conclusion. Form. And scope. 05:06:03

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1 THE DEPONENT: I -- I don't know how to 05:06:15
2 answer that.

3 I -- in -- in my personal experience, I
4 would work with product counsel and counsel. And
5 in that definition, I -- I -- as I said, I did not 05:06:24
6 prepare to have an answer for that today.

7 Q. (By Ms. Weaver) Okay. So it's really --
8 this really is very simple. It's a yes-or-no
9 question.

10 As you sit here today, can you define 05:06:33
11 personal information under the CCPA?

12 MR. BLUME: Same objections.

13 THE DEPONENT: I'm -- I'm truly
14 struggling to answer that, but -- I have prepared
15 context. But I can't answer yes or no to that. 05:06:43

16 Q. (By Ms. Weaver) Isn't the answer "no,"
17 that you don't know, as you sit here today, how
18 CCPA defines personal information?

19 A. I do in my personal experience and as I
20 work as a product manager day-to-day, but I do so 05:06:57
21 with guidance and direction from counsel. And I --
22 I didn't -- I don't have a prepared answer or
23 didn't prepare to answer it in this context.

24 Q. Well, what is your personal understanding
25 of what personal information is under the CCPA? 05:07:11

1 A. As I said, I've worked with counsel on 05:07:32
2 that. I just -- I don't have it at the end of the
3 day for you.

4 If -- if you'd like to put it up, I can
5 read what it is. I just -- I don't have that 05:07:40
6 answer right here in front of me.

7 Q. Okay. So that's fine.

8 | So the answer is you don't know, right?

9 MR. BLUME: Same objections.

10	THE DEPONENT: As a representative of	05:07:52
11	Facebook, I didn't prepare to answer that. In my	
12	personal experience, I work with it. But I -- I	
13	just -- I can't articulate it right now. So I --	

14 Q. (By Ms. Weaver) So the answer is, as you
15 sit here right now, you don't know what the 05:08:11
16 definition of personal information under the CCPA
17 is, correct?

18 In your personal or in the corporate
19 capacity; is that right?

20	MR. BLUME: Objection. Scope.	05:08:21
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21 You can answer yes or no in your personal
22 capacity.

23 THE DEPONENT: In -- in my personal
24 capacity, I work with product counsel on a regular
25 basis on the definition of what personal 05:08:31

1 information is under CCPA, which is a long and 05:08:33
2 nuanced answer in the context of working with that
3 data every day, because I have come up with and
4 developed that definition under guidance and
5 direction of counsel. 05:08:45

6 In my personal experience, I -- I -- I
7 did not prepare to answer that question, so I
8 cannot answer that I don't know.

9 Q. (By Ms. Weaver) Okay. Well, so -- we
10 have a 30(b)(6) deposition here. You've asked for 05:09:03
11 this document that refers to personal information
12 under CCPA, which is part of the definition of UII,
13 which is within the scope of what data is deleted,
14 and I'm just answering -- I'm just asking, for
15 the jury, can you tell me today, as you sit here, 05:09:20
16 how does Facebook define personal information?

17 MR. BLUME: Objection. Form. And scope.
18 And calls for a legal conclusion under the CCPA.

19 THE DEPONENT: And I -- I really am
20 trying to be responsive. And that's why I'm making 05:09:39
21 sure that it's on the record that I'm answering
22 that I don't know. In --

23 Q. (By Ms. Weaver) Okay.

24 A. -- preparation for this, I came prepared
25 to answer the things related to question 4. And 05:09:48

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1 am -- am not counsel and can't make a legal 05:09:52
2 conclusion to that.

3 Q. I'm not asking for a legal conclusion.
4 I am asking for Facebook's understanding
5 of what personal information is. 05:10:03

6 A. And as -- as I've already identified, it
7 wasn't in the scope of what I prepared in the
8 context of this deposition for the jury.

9 MS. WEAVER: And, Rob, why is it that you
10 think the definition of personal information is not 05:10:23
11 within the scope of user data and information?

12 MR. BLUME: It's defined in the CCPA,
13 which is a statute, and that is the definition.
14 Whether he can articulate it word for word or
15 whether he refers to the CCPA's definition is what 05:10:37
16 it is under the statute.

17 MS. WEAVER: I believe this is what --
18 (Simultaneously speaking.)

19 MR. BLUME: That is the definition --

20 MS. WEAVER: Rob, if you listen to the 05:10:46
21 question -- because you're objecting off point.
22 Could you please read back --

23 MR. BLUME: Your -- your question was --

24 SPECIAL MASTER GARRIE: All right. Stop.
25 We are not going off the rails. We are way too far 05:10:52

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1 into this today. 05:10:55

2 So read the question back.

3 Counsel Blume, if you want to respond, and you feel

4 you're responding, please do so. And we'll note

5 the objection for the record and we will then move 05:11:05

6 forward.

7 MS. WEAVER: The question is at page 196,

8 line 9.

9 MR. BLUME: Can you read it again?

10 SPECIAL MASTER GARRIE: 196. 05:11:31

11 MR. BLUME: The question I have is --

12 MS. WEAVER: I'm sorry. It's line 3.

13 MR. BLUME: Yeah, I'm -- I'm -- you're

14 asking me -- I'm happy to read the question.

15 "So the answer is, here right now, you 05:11:37

16 don't know what the definition of personal

17 information is" --

18 MS. WEAVER: Rob.

19 MR. BLUME: -- "under the CCPA; is that

20 correct?" 05:11:44

21 That's the question.

22 MS. WEAVER: Rob, it's line 3.

23 I'm not asking for a legal conclusion.

24 This is the question: What is Facebook's

25 understanding of what personal information is? 05:11:51

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1 MR. BLUME: He said it was the CCPA. And 05:11:55
2 that's a statute that you're --
3 (Simultaneously speaking.)
4 MS. WEAVER: Okay. But you're not
5 testifying, Mr. Blume -- 05:11:59
6 SPECIAL MASTER GARRIE: Wait. Wait.
7 Everybody just -- for some reason you guys
8 interpret my silence as a permission to keep
9 talking.
10 The objection is pending. I hear it. 05:12:06
11 And we will go from there.
12 Counsel Weaver, what was -- so I'm
13 looking at this. You asked a question to the
14 witness. The witness -- all right. It says "I'm
15 not asking for a legal conclusion. I'm asking for 05:12:25
16 Facebook's understanding of what the personal
17 information.
18 And then there's an answer.
19 And what is your -- your -- and then --
20 so help -- walk -- work with me. 05:12:36
21 So what is the issue, Counsel Weaver?
22 MS. WEAVER: I would like an answer to
23 the question of what Facebook's understanding of
24 personal information is.
25 SPECIAL MASTER GARRIE: Okay. That is 05:12:46

1 the question that is pending to the witness. 05:12:48

2 Is there an objection, Counsel Blume?

3 MR. BLUME: The objection is to the

4 extent it calls for a legal conclusion.

5 SPECIAL MASTER GARRIE: Noted -- 05:13:00

6 MR. BLUME: That is -- that's -- that's

7 my objection.

8 SPECIAL MASTER GARRIE: Noted for the

9 record.

10 Mr. Clark, please answer the question to 05:13:06

11 the best of your ability.

12 THE DEPONENT: To -- to the best of my

13 ability, as a representative of Facebook, I -- I

14 didn't prepare for that in -- in the context of

15 answering No. 4. 05:13:18

16 In my personal experience, the definition

17 that I have, I have gotten in working under

18 guidance and direction of counsel for the sake of

19 product work. And -- and I -- I don't know what I

20 can say and what I can't say. 05:13:39

21 I'm -- if -- if I were asked and even if

22 I were read is the CCPA definition of this, this,

23 then I could give an observation or factual answer,

24 I could answer that. But understanding implies

25 much more -- 05:14:03

1 SPECIAL MASTER GARRIE: Counsel Weaver, 05:14:05
2 you can follow --
3 THE DEPONENT: -- than what I had
4 prepared.
5 SPECIAL MASTER GARRIE: Go ahead. Sorry. 05:14:08
6 I didn't mean to interrupt.
7 THE DEPONENT: Oh, than -- than what I
8 had prepared for.
9 SPECIAL MASTER GARRIE: Counsel Weaver.
10 MS. WEAVER: This is a fundamental 05:14:18
11 question to the case and relates directly to the
12 data that is deleted and collected by Facebook.
13 What is Facebook's definition of personal
14 information?
15 I'm not asking for a legal conclusion. 05:14:27
16 I'm just asking --
17 SPECIAL MASTER GARRIE: Hey.
18 MS. WEAVER: Yeah.
19 SPECIAL MASTER GARRIE: The witness
20 testified he's not prepared to answer that on 05:14:33
21 behalf of Facebook as the witness -- I mean, I can
22 read you back what he said, but -- I mean --
23 MS. WEAVER: Okay. Well, I'll move on.
24 Sanctionable.
25 Q. (By Ms. Weaver) Looking at this 05:14:49

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1 deposition. 05:31:14

2 MR. BLUME: Refresh his recollection.

3 Okay. Presumably, if he didn't know it before the

4 deposition, then it wouldn't be refreshed. But

5 okay. 05:31:24

6 And Mr. Garrie, if I could be heard for a

7 moment.

8 SPECIAL MASTER GARRIE: Yes. Do you want

9 the witness to stay?

10 MR. BLUME: It doesn't matter. 05:31:34

11 SPECIAL MASTER GARRIE: Okay.

12 MS. WEAVER: It might matter to him.

13 MR. BLUME: He can go, if he wants.

14 THE DEPONENT: I'll be back.

15 MR. BLUME: I just -- I just want to make 05:31:44

16 sure that we're not chasing --

17 THE VIDEOGRAPHER: Did you want -- did

18 you want to go off the record or keep this on?

19 MR. BLUME: On -- on the record, please.

20 THE VIDEOGRAPHER: On the record. Okay. 05:31:53

21 MR. BLUME: To make sure that we're not

22 chasing windmills here.

23 The definition of personal information,

24 under the CCPA, which is the cite in this document

25 specifically, is about 330 words with three 05:32:06

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1 sections and ten subsections referencing no fewer 05:32:13
2 than three other statutes, including the California
3 constitution.

4 And so to expect any witness, even a
5 30(b)(6) witness, to recite all of that by memory 05:32:25
6 is an unreasonable request when the definition,
7 quote, personal information, close quote, as is set
8 forth in Exhibit 359 has a specific cite as to what
9 it means per the -- under the CCPA. And the CCPA,
10 as I mentioned, has a very long and complicated 05:32:47
11 definition of what that means.

12 And so claiming that he should not -- he
13 should be able to recite it by memory, I think, is
14 unreasonable. And it is also -- I will also note,
15 as he testified to all day, the term "personal 05:33:04
16 information" is not a necessary -- the definition
17 of that is not necessary to understand this
18 document. It's a comparative reference with the
19 definition cited, should that comparison need to be
20 made. But does not define the terms used by 05:33:21
21 Facebook, which is UII and/or user data.

22 Thank you.

23 We have nothing further.

24 SPECIAL MASTER GARRIE: Well, I -- yeah,
25 I -- again, I was just -- I was just processing 05:33:39

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1 what was said. 05:33:41

2 Okay. Noted for the record.

3 But the definition of how Facebook

4 defines personal information, I would go with being

5 a critical concept for the -- the case as its 05:34:00

6 entirety. And so for Facebook, it may -- I'll

7 leave it to the parties, having read the

8 stipulation to -- having reserved all the time and

9 allocated accordingly -- to have this conversation

10 among themselves, but I would -- I would encourage 05:34:21

11 the idea of producing a witness that can define how

12 Facebook defines personal -- personal --

13 MR. BLUME: If I may, Your Honor --

14 SPECIAL MASTER GARRIE: -- information.

15 MR. BLUME: Yeah. If I may -- 05:34:36

16 MS. WEAVER: You're interrupting him.

17 MR. BLUME: How -- if I may, personal

18 information is defined by Facebook as it sets forth

19 in Exhibit 359. That is the definition under the

20 CCPA. Facebook does not use the term "personal 05:34:45

21 information." That's why we -- it -- as the

22 witness said, the Facebook term for that -- for

23 something that subsumes personal information is

24 UII. That is the term that Facebook uses. And

25 it's important to note, that as the document -- 05:35:03

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1 SPECIAL MASTER GARRIE: But -- 05:35:07

2 MR. BLUME: -- says, UII does not

3 directly map to personal information, so...

4 SPECIAL MASTER GARRIE: Well, that's --

5 that's where I got confused. 05:35:11

6 So if someone who does know the CCPA and

7 the different articles and can recite it to you, I

8 have a serious concern with the very construct that

9 it subsumes the definition of personal information,

10 so I would expect that Facebook -- 05:35:21

11 MR. BLUME: Well --

12 (Simultaneously speaking.)

13 SPECIAL MASTER GARRIE: -- can product a

14 witness -- don't interrupt me again. You interrupt

15 me again and we will have a problem. 05:35:27

16 MR. BLUME: Okay.

17 SPECIAL MASTER GARRIE: Okay. Thank you.

18 MR. BLUME: Okay.

19 SPECIAL MASTER GARRIE: Thank you very

20 much. 05:35:34

21 So what I'm trying -- and what I was

22 saying is that it subsumes the definition.

23 Thereby, they must have some understanding of what

24 constitutes personal information.

25 I have reviewed countless exhibits and 05:35:44

1 materials your client has produced referencing 05:35:47
2 personal information as a term and a concept.
3 Whether or not you personally want to take a
4 position on behalf of your client that they have no
5 position as to what personal information is in the 05:35:58
6 786-plus documents that I can cite to you that use
7 the term "personal information" is a bit
8 disconcerting to me.

9 But with that even said, I still expect
10 that Facebook would feel incentivized to provide a 05:36:12
11 witness that could attest to how it defines the
12 concept of personal information, which is subsumed
13 by this broader construct. Because I can't exactly
14 understand how they are differentiating the two.
15 And I read the exhibit and I heard the testimony. 05:36:28

16 So I advise you to take this under
17 advisement accordingly before I order it. And I
18 will encourage you again that whatever witness --
19 if he's not prepared to testify as to how Facebook,
20 as a corporate representative, defines personal 05:36:45
21 information, that's noted for the record and will
22 be reflected accordingly as one of your comments.

23 We're done. We're off the record.

24 MR. BLUME: All right. I do not mean --

25 SPECIAL MASTER GARRIE: Thank you very 05:36:58

1 much. 05:36:58

2 MR. BLUME: I did not mean subsumed. I

3 meant to read the document, which is directly --

4 does not directly map to personal information.

5 That is how we define the term. 05:37:06

6 SPECIAL MASTER GARRIE: Right. I know.

7 But it -- so I've read the documents, actually, all

8 of them. And there is -- if Facebook's position is

9 they cannot define what personal information is,

10 that is fine. 05:37:21

11 (Simultaneously speaking.)

12 MR. BLUME: That's not --

13 SPECIAL MASTER GARRIE: They can go on

14 the record -- all that was asked is how Facebook

15 defined personal information and he said he is not 05:37:28

16 prepared to testify to that.

17 I said that is fine. Right. I said that

18 is fine. I understand it was a concept of that

19 document. But the question was a broader question

20 asked by the attorney and the witness stated that 05:37:40

21 they were not prepared -- maybe there was

22 confusion. Maybe there wasn't. Fine.

23 My point is, is Facebook would -- I would

24 recommend find a witness that can define how

25 Facebook, the company, defines personal 05:37:55

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1 information. That's it. 05:37:58

2 There's no further conversation.

3 MR. BLUME: Under- -- understood.

4 And with all due respect, it's -- he --

5 all he said was he couldn't reflect -- he couldn't 05:38:05

6 testify to the definition under the CCPA, which is
7 how it's referenced in this document. That is his
8 testimony.

9 SPECIAL MASTER GARRIE: Well, there was
10 actually multiple -- there -- there -- well, it 05:38:17
11 doesn't matter. The testimony is captured for the
12 record and -- and I read 196, line 3, accordingly,
13 with the subsequent six lines of answers, as well
14 as the four other references.

15 But that's neither here nor there. And I 05:38:27
16 will leave it in the hands of counsel to review it.

17 All I'm saying to Facebook is, find a
18 witness that can define what personal information
19 is, if there is not an agreement on this. Because
20 I get a lot of briefs from everybody citing to this 05:38:43
21 constructs of personal information and not personal
22 information, as does Judge Chhabria. And if your
23 client doesn't have a definition, we'd all like to
24 know.

25 So with that in mind, we're going to go 05:38:55

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1 off the record. Call it a wrap for the day and we 05:38:58
2 will continue forward with other depositions.
3 That's all I'm telling for the record. Okay. All
4 done.

5 THE VIDEOGRAPHER: Okay. We're off the 05:39:11
6 record. It's 5:39 p.m.

7 (TIME NOTED: 5:39 p.m.)
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